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| EXAMINER |
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VU, TUAN A

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| ART UNIT | PAPER NUMBER |
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2193

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/600,178 | Applicant(s) HASELDEN ET AL. | |
| | Examiner Tuan A. Vu | Art Unit 2193 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the Applicant's response filed 8/14/06.

As indicated in Applicant's response, claims 1, 10, 21 have been amended and claims 11-14 canceled. Claims 1-10, 15-22 are pending in the office action.

Claim Objections

2. Claim 21 is objected to because of the following informalities: the phrase recited as 'merging the dependencies of the components with the components to generate ...' (line 6) seems to have a typographical error or an awkward phraseology in duplicating the term 'components'. Appropriate correction is required otherwise this would lead to a indefinite limitation.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 15-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 15 recites a computer-implemented system comprising data representative of components dependencies and a merge module to generate a deployable bundle. There is absence in the claim of any hardware support/embodiment to carry out the functionality construed as this 'merge module'. From the specifications, this module amounts to a software entity (e.g. Fig. 4); thus, the system claim is devoid of any hardware support or tangible apparatus to carry out or realize the functionality of any software entity being claimed.

The Federal Circuit has recently applied the practical application test in determining whether the claimed subject matter is statutory under 35 U.S.C. § 101. The practical application test requires that a “useful, concrete, and tangible result” be accomplished. An “abstract idea” when practically applied is eligible for a patent. As a consequence, an invention, which is eligible for patenting under 35 U.S.C. § 101, is in the “useful arts” when it is a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result. The test for practical application is thus to determine whether the claimed invention produces a “useful, concrete and tangible result”.

Because it is reasonable to interpret that any computer-implemented system can be without hardware embodiment such as it appears in the claim, i.e. absent explicit inclusion therein of such hardware support or tangible embodiment, the claim is perceived as unable to yield a tangible result, and as set forth above, is rejected for leading to a non-statutory subject matter.

Claims 16-18 are rejected for not remedying to the deficiency of claim 15. Claim 19 only recites means for communicating, which can be construed as interfacing means between software modules interaction, thus still lacks hardware to support the merging functionality of claim 15. Hence claims 19 and 20 are also rejected for depending on a rejected subject matter of the base claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-10, 15-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Forbes et al., USPN: 6,381,742 (hereinafter Forbes).

As per claim 1, Forbes discloses a method for deployment of components, comprising:

defining dependencies by components of pluggable component-based software (e.g. Fig. 1; col. 6, lines 44-48), wherein at least one component of a deployable bundle is provided by a third party (e.g. col. 6, lines 40-44; *third parties* – col. 12, lines 5-11; *not already present client's machine ...go get it*; col. 12, lines 62-65; *HREF... name of distribution* - col. 13, lines 34-40; *remote server ... URL* --col. 9, lines 34-37; col. 15, lines 59-67; col. 11, lines 51-54);

wherein the components expose their dependencies to a cooperating interface (e.g. Fig. 1; Fig. 2b, 2c; *when the user wants* -col. 11, lines 12-26; *manifest file ... files ...namespaces ...visible to the application... tag informs an OSD-aware client browser* – col. 14, lines 24 to col. 15, line 55);

generating a list of defined dependencies (e.g. Fig. 4; col. 14 lines 49 to col. 15, lines 44; Fig 3A),;

identifying files associated with the defined dependencies (e.g. step 305 – Fig. 3A); and
processing the dependency list and identified files to generate a deployable bundle (e.g. Fig. 3A-3C).

As per claim 2, Forbes discloses communicating the deployable bundle to a cooperating environment (e.g. Fig. 1; *OSD-aware client browser* - col. 14, lines 24 to col. 15, line 55).

As per claim 3, Forbes discloses merging the dependency list, the identified files, and default component elements to generate the deployable bundle (e.g. Fig. 3A; col. 9, lines 28-54; software package 211 - col. 10, lines 5-43; unit 215 – Fig. 2B; *distribution unit 205* – Fig. 2A).

As per claim 4, Forbes discloses further comprising scanning the components to identify default elements and non-default elements (e.g. *minimum, five fields...platform specific, additional fields, optional signature field* – col. 11, lines 43 col. 12, lines 10 --Note: platform

specific fields and additional fields for version resolution reads on default and non-default elements).

As per claim 5, Forbes discloses providing an installer component (e.g. col. 6, lines 57-62; *distribution unit* – Fig. 2C) for inclusion in the deployable bundle.

As per claim 6, Forbes discloses validating (e.g. *step 315* – Fig. 3A; *step 339*, Fig. 3B) and installing the deployable bundle in a computing environment.

As per claim 7, Forbes discloses providing configuration files (e.g. *readme* – col. 7, lines 7-10) for inclusion in the deployable bundle.

As per claims 8-9, Forbes discloses
merging the dependency list, the identified files, and default component elements to generate the deployable bundle (refer to claim 3 and default elements being addressed in claim 4),

a merge module to perform the merge (refer to claim 3 for merging dependency list).

As per claim 10, Forbes discloses a computer readable medium having computer readable instructions for:

defining dependencies by components of pluggable component-based software (e.g. Fig. 1; col. 6, lines 44-48), wherein at least one component of a deployable bundle is provided by a third party (e.g. col. 6, lines 40-44; *third parties* – col. 12, lines 5-11; *not already present client's machine ...go get it*; col. 12, lines 62-65; *HREF... name of distribution* - col. 13, lines 34-40; *remote server ... URL* --col. 9, lines 34-37; col. 15, lines 59-67; col. 11, lines 51-54);

wherein the components expose their dependencies to a cooperating interface (e.g. Fig. 1; Fig. 2b, 2c; *when the user wants* -col. 11, lines 12-26; *manifest file ... files ...namespaces*

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...visible to the application... tag informs an OSD-aware client browser – col. 14, lines 24 to col. 15, line 55);

generating a list of defined dependencies;
identifying files associated with the defined dependencies; and
processing the dependency list and identified files to generate the deployable bundle;
all of which steps having been addressed in claim 1 above.

As per claim 15, Forbes discloses a computer-implemented system to deploy a package having dependencies comprising:

dependency data representative of the dependencies of components of the package, the package comprising pluggable component-based software (e.g. Fig. 1; col. 6, lines 44-48), wherein at least one component of a deployable bundle is provided by a third party (e.g. col. 6, lines 40-44; *third parties* – col. 12, lines 5-11; *not already present client's machine ...go get it*; col. 12, lines 62-65; *HREF... name of distribution* - col. 13, lines 34-40; *remote server ... URL --* col. 9, lines 34-37; col. 15, lines 59-67; col. 11, lines 51-54); and

a merge module operating to merge the dependency data with the components of the package to generate the deployable bundle (see Fig. 3A; col. 9, lines 28-54; software package 211 - col. 10, lines 5-43; unit 215 – Fig. 2B; *distribution unit 205* – Fig. 2A).

As per claim 16, Forbes discloses an installer, the installer being merged by the merge module to generate the deployable bundle (refer to claim 5).

As per claim 17, Forbes discloses configuration information, the configuration information (refer to claim 7) being merged by the merge module to generate the deployable bundle.

As per claim 18, Forbes discloses default package components, the default package components being merged by the merge module to generate the deployable bundle as addressed in claims 4 and 8.

As per claim 19, Forbes discloses a communication means for use in communicating the deployable bundle to a cooperating computing environment (e.g. *package manager* - Fig. 2B, 2C).

As per claim 20, Forbes discloses a validation means (refer to claim 6) to validate the proper deployment of the package.

As per claim 21, Forbes discloses a system for use in the deployment of components having dependencies comprising:

a means for determining the dependencies of components of pluggable component-based software (e.g. Fig. 1; col. 6, lines 44-48), wherein at least one component of a deployable bundle is provided by a third party (e.g. col. 6, lines 40-44; *third parties* – col. 12, lines 5-11; *not already present client's machine ...go get it*; col. 12, lines 62-65; *HREF... name of distribution* - col. 13, lines 34-40; *remote server ... URL* --col. 9, lines 34-37; col. 15, lines 59-67; col. 11, lines 51-54);

the components exposing the dependencies to the means (e.g. Fig. 1; Fig. 2b, 2c; *when the user wants* -col. 11, lines 12-26; *manifest file ... files ...namespaces ...visible to the application... tag informs an OSD-aware client browser* – col. 14, lines 24 to col. 15, line 55);

a means for merging the dependencies of the components with the components of the package to generate the deployable bundle (see Fig. 3A; col. 9, lines 28-54; software package 211 - col. 10, lines 5-43; unit 215 – Fig. 2B; *distribution unit 205* – Fig. 2A).

As per claim 22, Forbes discloses comprising an installation means, the installation means cooperating (e.g. refer to claim 19) with the merging means for installing the deployable bundle.

Response to Arguments

7. Applicant's arguments with respect to prior art rejection of claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.
8. The arguments regarding the USC 101 are not sufficient to overcome the current rejection as set forth above.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (272) 272-3735. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571)272-3756.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3735 (for non-official correspondence - please consult Examiner before using) or 571-273-8300 (for official correspondence) or redirected to customer service at 571-272-3609.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tuan A Vu
Patent Examiner,
Art Unit 2193
October 31, 2006